

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:  
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PLR-115791-11

Date:  
September 19, 2011

### LEGEND:

X =

A =

B =

Trust =

State =

Date1 =

Date2 =

Date3 =

Date4 =

Dear

This responds to a letter dated April 8, 2011, submitted on behalf of X by its authorized representative, requesting a ruling under § 1362(f) of the Internal Revenue Code.

The information submitted states that X was incorporated under the laws of State and elected to be an S corporation effective on Date 1. On Date 2, A, the sole shareholder of X died. On Date 3, A's estate transferred all the shares of X to Trust. Because the shares of X were transferred to Trust pursuant to the terms of A's will, Trust was a permitted S corporation shareholder for the 2-year period beginning on Date 3.

X represents that Trust was intended to qualify as a qualified subchapter S trust (QSST) under § 1361(d). However, B, the beneficiary of Trust, did not timely file a QSST election on behalf of Trust. Therefore, X's S corporation election terminated two years after Date 3, on Date 4. B reported B's allocable share of Trust income consistent with the treatment of Trust as a QSST on all affected returns.

X represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make such adjustments (consistent with the treatment of X as an S corporation) as may be required by the Secretary.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation was terminated under § 1362(d)(2) or (3); (2) the Secretary determines that the circumstances resulting in such termination were inadvertent; (3) no later than a reasonable period of time after discovery of the circumstances resulting in the termination, steps were taken so that the corporation is a small business corporation; and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified under § 1362(f), agrees to make the adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary for that period, then, notwithstanding the circumstances resulting in such termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that the termination of X's S corporation election was inadvertent within the meaning of § 1362(f). Under the provisions of § 1362(f), X will be treated as continuing to be an S corporation from Date 4 and thereafter. This ruling is conditioned on B, the sole beneficiary of Trust, filing an appropriately completed QSST election for Trust, effective on Date 4 with the appropriate service center. The QSST election for Trust must be filed within 120 days following the date of this letter and a copy of this letter should be attached to such election.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Bradford R. Poston  
Senior Counsel, Branch 2  
(Passthroughs & Special Industries)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes